

## REMARKS

Applicant files this Amendment after Final Office Action under 37 CFR 1.1116 in response to the Office Action dated April 20, 2005.

### SUMMARY OF OFFICE ACTION

In the Office Action, Claims 3-6 were objected to under 37 C.F.R. 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 8 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular Claim 8 recites the limitation “each one of the apertures” in line 1. There is insufficient antecedent basis for this limitation in the claim based on a view that the limitation previously cited in Claim 1 is drawn to “at least one gauge receiving aperture.”

Claims 1, 5, and 7-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trexler, Jr. (U.S. Patent No. 4,507,706) in view of Humber (U.S. Patent No. 5,702,076) based on a view that it would have been obvious to one having ordinary skill in the art to have included the insulator as taught by Humber for the purpose of providing a means holding a cylindrical object such as a gauge rigidly in position and to accommodate different sized objects.

Claims 3 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Trexler, Jr. combined with Humber and in further view of Longo (U.S. Patent No. 4,993,611) based on a view that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bracket in Trexler, Jr. combined with Humber to have included the recesses as taught by Longo for the purpose of providing an alternative, mechanically equivalent arrangement for rigidly supporting a cylindrical object such as a gauge within the aperture to prevent unwanted detachment of the gauge from the bracket.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Trexler, Jr. combined with Humber and in further view of Peterson (U.S. Patent No. 3,603,551) based on a view that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the bracket in Trexler, Jr. combined with Humber

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to have included the recesses as taught by Peterson for the purpose of providing an alternative, mechanically equivalent arrangement for rigidly supporting a cylindrical object such as a gauge within the aperture to prevent unwanted detachment of the gauge from the bracket.

The Examiner indicated that the Applicant's arguments filed January 18, 2005 have been fully considered but were not persuasive. As such the rejections made in the prior Office Action stand.

The Examiner indicated that this Office Action is made final.

#### APPLICANT'S RESPONSE

##### Claims 1 and 2-13

In the Office Action, Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Trexler, Jr. in view of Humber. The Examiner reasoned that Trexler, Jr. discloses the claimed invention except for the limitation of the aperture defining a plurality of displaceable segments, and that there is motivation to combine the plurality of displaceable segments disclosed in Humber into the device of Trexler, Jr. In response, Applicant respectfully disagrees based on a view that to do so would render the device of Trexler, Jr. unsatisfactory for its intended purpose.<sup>1</sup>

The purpose of the device of Trexler, Jr. may be characterized as permitting gauges to be interchangeably mounted and readily replaced. In support thereof, Applicant respectfully directs the Examiner's attention to portions of the disclosure of Trexler, Jr. which recite the same. In particular, column 2, lines 15-16 recite that the device of Trexler "permits gauges installed therein to be interchangeably mounted." Also, lines 18-20 recite that the device of Trexler, Jr. "permits gauges mounted therein to be readily replaced with either the same or a different type of gauge." Column 2, lines 47-49 recite that "gauges shaped to conform to the standardized holes may be interchangeably mounted to the system from the front of the instrumentation panel." These references to the disclosure of Trexler, Jr. evidence one of the intended purposes of the device of Trexler, Jr., specifically, to allow the gauges to be

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<sup>1</sup> If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir 1984).

interchangeably mounted and readily replaced with other gauges. The device of Trexler, Jr. permits the gauges to be interchangeably mounted and readily replaceable based on a view that the securing pin 18 is inserted into the aperture 38 for mounting the gauge to the bracket (column 3, lines 47-48) and removed therefrom (column 4, line 68 - column 5, line 1) to remove the gauge from the bracket. Thereafter, a second gauge with a securing pin 18 may be inserted into the aperture 38 thereby enabling or permitting interchangeable mounting of gauges to the bracket.

If the plurality of displaceable segments were to be incorporated into the device of Trexler, Jr., then the device of Trexler, Jr. would be made inoperable for its intended purpose based on a view that the gauges would no longer be interchangeably mounted and readily replaceable. Figures 6 and 7 of Trexler discloses that the plurality of segments are inwardly deflected when the pipe (i.e., gauge) is inserted therebetween. As understood, the pipe or gauge may only be removed by further pushing the pipe or gauge in a forward direction through the plurality of displaceable segments until the plurality of displaceable segments release the pipe or gauge. If the pipe or gauge was retracted out from the plurality of segments in a reverse direction from which it was inserted, then the plurality of displaceable segments may break or deform or otherwise mar the pipe or gauge such that another pipe or gauge may not be inserted into the plurality of displaceable segments.

If the plurality of displaceable segments were incorporated into the device of Trexler, Jr., then the plurality of displaceable segments may be deflected inwardly toward the circuit board panel 30 and circuit board 40 when the gauges are inserted through the plurality of displaceable segments. Unfortunately, the diameter of the gauge is much larger than the apertures formed in the circuit board panel 30 and the circuit board 40 such that the gauge may not be pushed through the incorporated plurality of segments to remove the gauge from the bracket of Trexler, Jr. As understood, the only method of removing the gauge from the bracket is to pull the gauge out of the plurality of segments in a reverse direction but removing the gauge by backing the gauge out of the plurality of segments may destroy (e.g., break, deform, etc.) the segments such that gauges could not be interchangeably mounted or readily replaced. Accordingly, an intended purpose of Trexler, Jr. (i.e., interchangeable mounting and ready replacement) is defeated when the plurality of displaceable segments of

Trexler, Jr. are incorporated into the device of Trexler, Jr. Hence, there is no motivation to modify the device of Trexler, Jr. with the plurality of displaceable segments taught in Humber. For the foregoing reasons, Applicant respectfully submits that the cited art does not anticipate, suggest or make obvious the invention recited in Claim 1.

The dependent claims of Claim 1, namely Claims 3-13 are believed to be in condition for allowance for being dependent upon an allowable base Claim 1. Also, Claims 3-13 are believed to be in condition for allowance for containing additional patentable subject matter. For example, new Claim 13 recites that the gauge is insertable through the aperture from an exterior side to an interior side of the bracket until a gauge lip is received by a receiving surface of the bracket and that segments are displaceable toward the interior side upon insertion of the gauge for resisting removal of the gauge from the bracket.

These limitations are not disclosed in the prior art. In Trexler, Jr., it is understood that the mounting pins 18 regulate the insertion distance of the gauge into the aperture 38. In contrast, the gauge of the present invention regulates the insertion distance via the gauge lip based on a view that the gauge is insertable through the aperture until the gauge lip is received by the receiving surface of the bracket. In Humber, the insertion distance of the pipe is not regulated by a gauge lip. Rather, the plurality of displaceable segments of Humber are for the purposes of insulating the wall from the pipe (column 2, line 37). As such, Humber does not contemplate regulating the insertion distance of the pipe into the plurality of displaceable segments.

Further, the cited art does not disclose the limitation of the segments being displaceable toward the interior side of the bracket upon insertion of the gauge for resisting removal of the gauge from the bracket. In other words, even if there was motivation to combine the plurality of displaceable segments taught in Humber into the device of Trexler, Jr., there is no teaching as to the orientation of the plurality of displaceable segments. The gauges may be inserted from the rear side of the bracket shown in Trexler, Jr. such that the segments are displaceable toward the exterior side upon insertion of the gauge. Such orientation or insertion of the gauge into the plurality of displaceable segments do not serve the purpose of resisting removal of the gauge from the bracket based on a view that the gauge would merely slide out of the bracket toward the exterior side. Accordinlgy, Trexler, Jr. does

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not disclose the limitation of the segments being displaceable toward the interior side upon insertion of the gauge for resisting removal of the gauge from the bracket.

Humber also does not disclose the limitation of the segment being displaceable toward the interior side of the bracket upon insertion of the gauge for resisting removal of the gauge from the bracket. As understood, Humber does not disclose an insertion orientation or a removal orientation. Humber is directed to insulation of the wall from the pipe such that vibration or heat transfer does not occur therebetween. Humber does not involve repeatedly inserting and removing the pipe from the plurality of displaceable segments. For the foregoing reasons, Applicant respectfully submits that the cited prior art does not disclose, suggest or make obvious the invention recited in Claim 13. As such, Claim 13 as well as the dependent claims of Claim 1, namely Claims 3-13 are believed to be in condition for allowance for containing additional patentable subject matter.

#### Claim Objections Under 37 C.F.R. § 1.75(c)

In the Office Action, the Examiner objected to Claims 3-6 under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant respectfully disagrees with the Examiner's characterization of Claims 3-6. For example, Claim 3 recites a series of radial cuts. Claim 1 does not recite such limitation. As such, Claim 3 further limits the scope of the invention recited in Claim 1 via the series of radial cuts. Claim 4 further recites that the recesses define a cross-shaped aperture. Claim 1 does not recite such limitation. As such Claim 4 further limits the scope of the invention recited in Claim 1. Likewise, Claim 5 further recites that the recesses define a plurality of outer arcuate recesses and that the displaceable segment defines a plurality of displaceable inner arcuate segments. Claim 1 does not recite such limitation. As such Claim 5 further limits the scope of the invention protected under Claim 1. Claim 6 further limits the subject matter of Claim 3 by reciting that the radial cuts are of generally equal length. Claims 1 and 3 from which Claim 6 depends upon does not recite such limitation. As such Claim 6 also further limits the subject matter of a previous claim. For these reasons, Applicant respectfully submits that the objections to Claims 3-6 under 37 C.F.R. 1.75(c) are overcome.

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Claim Rejections - 35 U.S.C. § 112

In the Office Action, Claim 8 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention based on a view that Claim 8 refers to apertures (plural) and Claims 1 and 7 only refer to at least one aperture (singular). In response, Applicant has amended Claim 8 to further recite that the structure comprises two apertures and that each one of the apertures is of generally equivalent size. By this Amendment, Applicant respectfully submits that the rejection of Claim 8 under 35 U.S.C. § 112, second paragraph has been overcome.

CONCLUSION

For the foregoing reasons, Applicant respectfully submits that all of the stated grounds of rejection and objection have been overcome, and that Claims 1 and 3-13 are in condition for allowance. An early Notice of Allowance is therefore respectfully requested.

Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact the Applicant's representative at the telephone number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: May 17, 2005 By: \_\_\_\_\_

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